

SERVICE DATE - OCTOBER 4, 2004

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423****ENVIRONMENTAL ASSESSMENT****STB DOCKET NO. AB-6 (Sub. No. 426X)****The Burlington Northern and Santa Fe Railway Company – Abandonment Exemption –  
in Matagorda and Wharton Counties, TX****BACKGROUND**

In this proceeding, the Burlington Northern and Santa Fe Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for BNSF to abandon its line of railroad located between M.P. 66.95 in Bay City and M.P. 54.00 near Cane Junction, and between M.P. 0.00 near Cane Junction and M.P. 7.94 near Newgulf, in Matagorda and Wharton Counties, Texas, a total distance of 20.89 miles. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, BNSF will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

**DESCRIPTION OF THE LINE**

According to BNSF, the Cane Belt Railroad Company, a predecessor of The Atchison Topeka and Santa Fe Railway, acquired the right-of-way between 1899 and 1914. In 1995, the Burlington Northern Railroad Company and the Atchison Topeka and Santa Fe Railway merged to become BNSF.

The Bay City to Cane Junction and the Cane Junction to Newgulf lines are located in a rural area of southeastern Texas. The line connects the town of Bay City with the stations of Runnels, Cane Junction and Newgulf. The land adjoining the right-of-way is primarily used for ranchland and farmland and is generally flat. Primary crops include soybeans, corn and cotton. The right-of-way is 100 feet in width.

BNSF states that the line has had no local traffic in the prior two years and that there is no overhead traffic to be rerouted. There would be no diversions of traffic. According to BNSF, there are 9 public crossings and 27 private railroad crossings on the line. During the salvage operations, BNSF will take precautions to ensure public safety, and contractors will be required to satisfy all applicable health and safety laws and regulations. There are eight bridges that are 50 years or older in the immediate area of the abandonment. The four bridges between Cane Junction and Newgulf are ballast deck frame trestle bridges and were all built in 1930. The four bridges between Cane Junction and Bay City are open pile trestle bridges, built between 1912 and 1922.

## **ENVIRONMENTAL REVIEW**

BNSF submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. BNSF served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

The U.S. Department of Agriculture, Natural Resources Conservation Service in Temple, Texas, has evaluated the proposed site as required by the Farmland Protection Policy Act (FPPA). The proposed abandonment is considered a prior conversion by the FPPA and is not subject to the FPPA.

The U.S. Department of the Interior, National Park Service, Intermountain Region in Denver, Colorado, has determined that there are no National Park Service Units in the vicinity of the proposed project.

The National Geodetic Survey has advised us that 17 geodetic station markers have been identified that may be affected by the proposed abandonment.

The Department of the Army, Corps of Engineers, Galveston District has determined that, because no work is being conducted and no fill material is being placed into a wetland or water of the United States, the proposed project is not subject to their jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. The proposed abandonment does not require a Department of the Army Section 404 permit.

The U.S. Department of the Interior, Fish and Wildlife Service, Division of Ecological Services (FWS) in Houston, Texas, has indicated that a pair of Federally threatened Bald eagles is known to nest to the east-southeast of Newgulf. Individual Bald eagles exhibit considerable variation in their responses to human activity, depending upon the type, frequency, and duration of activity; the extent of environmental modification; the point in time of the bird's reproductive cycle; and various other factors not well understood. Accordingly, we will recommend a consultation condition requiring that BNSF contact FWS prior to commencement of any salvage activities on this project for further evaluation of any impacts to Bald eagles, and, if necessary, develop protective measures within the project area to minimize potential adverse impacts.

The Texas Parks and Wildlife Division (TPWD) in Austin, Texas, has listed a number of rare, threatened, and endangered state species for Matagorda and Wharton counties. The information does not provide a definitive statement as to the presence, absence, or condition of special species, natural communities, or other significant features within the project area, but is intended to assist BNSF in avoiding harm to species that may occur in the project area. Accordingly, prior to commencement of any salvage activities on this project, we will recommend

a consultation condition requiring that BNSF contact TPWD to determine whether a more narrowly-focused site-specific review is required.

## **HISTORIC REVIEW**

BNSF submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)]. BNSF served the report on the Texas Historical Commission (SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected by the proposed abandonment. We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the section 106 process of the National Historic Preservation Act at 36 CFR 800.4(d)(1) and 36 CFR 800.8, we have determined that the proposed abandonment will not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of BNSF's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

## **CONDITIONS**

We recommend that the following three environmental conditions be placed on any decision granting abandonment authority:

1. To address the concerns of the Texas Parks and Wildlife Division (TPWD) in Austin, Texas, regarding rare, threatened, and endangered state species, BNSF shall, prior to commencement of any salvage activities on this project, consult with TPWD in order to evaluate impacts to state species and minimize impacts to species that may occur in the project area.
2. To address the concerns raised by the U.S. Department of the Interior, Fish and Wildlife Service, Division of Ecological Services (FWS) in Houston, Texas, BNSF shall, prior to commencement of any salvage activities on this project, contact FWS to evaluate any impacts to the Federally threatened Bald eagle, and, if necessary, develop protective measures within the project area to minimize potential adverse impacts.
3. The National Geodetic Survey (NGS) has identified 17 geodetic station markers that may be affected by the proposed abandonment. Therefore, BNSF shall notify NGS 90 days prior to salvage activities in order to plan their relocation.

## **CONCLUSIONS**

Based on the information provided from all sources to date, we conclude that, as currently

proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

## **ENVIRONMENTAL COMMENTS**

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Kenneth Blodgett, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub No. 426X) in all correspondence addressed to the Board.** If you have any questions regarding this

environmental assessment, you should contact Kenneth Blodgett, the environmental contact for this case by phone at (202) 565-1554, fax at (202) 565-9000, or e-mail at [blodgettk@stb.dot.gov](mailto:blodgettk@stb.dot.gov).

Date made available to the public: October 4, 2004.

Comment due date: **October 19, 2004 (15 days).**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams  
Secretary

Attachment

